

REMARKS

Claims 16 to 30 are now pending.

Applicants respectfully request reconsideration of the present application in view of the following.

Reconsideration is respectfully requested based on the following.

Applicants thank the Examiner for acknowledging the claim for foreign priority and for indicating that all certified copies of the priority documents have been received, and for considering the disclosed references and making them of record.

Applicants thank the Examiner for allowing claims 25 and 26.

Claims 16 to 24 and 27 to 30 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,816,798 to “Pena-Nieves et al.”

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Applicants respectfully submit that the “Pena-Nieves” reference does not describe the features of “determining errors *as a function of the functional structure*” and “analyzing error dependencies *with respect to the functional structure*”, as provided for in the context of claim 16. The “Pena-Nieves” reference merely refers to analyzing and displaying reliability data from a user, but wholly fails to describe the feature of performing any determining or analyzing on a *functional structure*, as provided for in the context of claim 16. The “Pena-Nieves” reference merely refers to reliability information, and nothing indicates that reliability information may be in a functional structure.

Nevertheless, to facilitate matters, claims 16, 28, 29 and 30 now include certain of the features like those of allowed claim 25. In particular, each of claims 16, 28, 29 and 30 include the features of *tracking the error dependencies in the functional structure; determining global effects of the errors; determining errors which cause a malfunction of a component or a communication relationship; determining measures for at least one of error detection and error control; determining an achievable safety level and comparing the determined safety level with the selected safety level; and restarting the method at the tracking as a function of the comparison until achieving the safety level*. It is believed and respectfully submitted that any review of the applied reference does not disclose nor suggest these features, so that claim 16 (and its dependent claims 17 to 24) and claims 28 to 30, as presented, are allowable for essentially the same reasons as claim 25.

In summary, all of pending claims 16 to 24 and 27 to 30 are allowable – like allowed claims 25 and 26.

CONCLUSION

In view of the foregoing, all of pending claims 16 to 24 and 27 to 30 are allowable – like allowed claims 25 and 26. It is therefore respectfully requested that the objections and rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

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Respectfully submitted,

KENYON & KENYON LLP

By: 

Gerard A. Messina
(Reg. No. 35,952)

One Broadway
New York, NY 10004
(212) 425-7200

CUSTOMER NO. 26646

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